IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17269 of 2004

Between:

M/s. Kendriya Bhandar,

(A Welfare set up under the Aegis of Govt. of India)
Ministry of personal P.G. & P.S., R.No.16, Ground floor,
Sultan Bazaar, Hyderabad-95.

... PETITIONER

AND

The Commercial Tax officer, Rajendra Nagar Circle, Mayur

Kushal Complex, besides Chermas, Gunfoundry, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or orders more particularly one in the nature of the writ of Mandamus, declaring the action of the respondent in issuing a notice to the petitioner company u/s. 17 of A.P.G.S.T.Act, in R.C.No.3/1642 dated 14-09-2004, as amounting to highly arbitrary, illegal and unconstitutional.

Counsel for the Petitioner: MR.GOPALA KRISHNA KALANIDHI

Counsel for the Respondent: GP FOR COMMERCIAL TAXES

The Court made the following :

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ORAL ORDER: (Per Sri Bilal Nazki , J)

While the petitioner's first appeal was pending, notice under Section 17 of Andhra Pradesh General Sales Tax Act, 1957 (for short "the Act") was given to him. He approached this Court by way of Writ Petition No.22634 of 2003. The Court directed the petitioner to deposit a sum of Rs.5,00,000/- and also directed that notice issued on 22.10.2003 under Section 17 of the Act need not be given effect to. The order had to remain operative till the result of the appeal. The Appeal has been decided and the petitioner has filed second appeal. Since the first appeal was dismissed, the Department has issued a fresh notice under Section 17 of the Act.

Petitioner submits that he has already deposited Rs.5,00,000/- while the first appeal was pending, therefore, the notice under Section 17 of the Act be stayed till the second appeal is disposed of.

After hearing the learned counsel for the parties and with their consent, we dispose of the writ petition at this stage with the direction that the petitioner shall deposit 50% of the disputed tax minus Rs.5,00,000/- which has already been deposited by him. The amount shall be deposited within four weeks. On deposit of the amount, Section 17 notice may not be given effect to till the disposal of the appeal. No costs.

(**BILAL NAZKI, J**)

11th October, 2004.

(**S.ANANDA REDDY, J**)

Note: Copy by tomorrow.

(B/o)

pan/kvni

To

1. The Commercial Tax officer,
   Rajendra Nagar Circle, Mayur Kushal Complex,
   besides Chermas, Gunfoundry, Hyderabad.

2. Two C.Cs to the Govt.Pleader for Commercial Taxes,
High Court buildings, Hyderabad. (OUT)

3. Two C.D.copies.